

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

### **I. DISPUTE**

1.
  - a. Whether there should be additional reimbursement for date of service 6-3-02?
  - b. The request was received on 7-29-02.

### **II. EXHIBITS**

1. Requestor, Exhibit I:
  - a. TWCC-60 and letter requesting Medical Dispute Resolution
  - b. TWCC-66a
  - c. EOB(s)
  - d. Pages from Red Book, "Ready Price."
  - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Based on Commission Rule 133.307 (g)(4), the Division notified the insurance carrier Austin Representative of their copy of the request on 8-15-02. The response from the insurance carrier was received in the Division on 9-3-02. Based on 133.307 (i) the insurance carrier's response is untimely so the Commission shall issue a decision based on the request.
3. The notice of Additional Information submitted by Requestor is reflected as Exhibit III of the Commission's case file.

### **III. PARTIES' POSITIONS**

1. Requestor: letter dated 9-8-02:

"We have submitted a claim to the Carrier for date of service 06-03-02 for the medication Carisoprodol 350 mg #60 in the amount of \$209.60...The disputed issue is that the Carrier has only paid \$183.28 stating 'M' charge for this procedure exceeds average wholesale price plus mark up....the following formula shall be utilized for generic medications:  $AWP \times \text{number of units} \times 1.25 + \$4.00 = \text{MAR}$ . In this case the patient received 60 pills the AWP is  $164.48 \times 1.25 + \$4.00 = 209.60$ . Therefore, reimbursement should be \$209.60 not the \$183.28 the Carrier paid.
2. Respondent: The response was not timely and consequently not eligible for review.

**IV. FINDINGS**

1. Based on Commission Rule 133.307(d)(1&2), the only date of service eligible for review is 6-3-02.
2. The carrier's EOB has the denial "M – CHARGE FOR THIS PROCEDURE EXCEEDS AVERAGE WHOLESALE PRICE PLUS MARK-UP."
3. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	BILLED	PAID	EOB Denial Code	MARS	REFERENCE	RATIONALE:
6-3-02	Carisoprodol 350 mg #60	\$209.60	\$183.28	M	No MAR	Texas Workers' Compensation Act & Rules; Rule 134.503; Rule 134.500.	<p><b>Rule 134.503 (a) The maximum allowable reimbursement (MAR) for prescription drugs shall be the lesser of: (1) The provider's usual and customary charge for the same or similar service; (2) The fees established by the following formulas based on the average wholesale price (AWP) determined by utilizing a nationally recognized pharmaceutical reimbursement system (e.g. Redbook, First Data Bank Services) in effect on the day the prescription drug is dispensed. (A) Generic drugs: (AWP per unit) x (number of units) x 1.25) + \$4.00 dispensing fee = MAR;</b></p> <p>Effective 03/01/02, the reimbursement formula for a pharmaceutical is found in Rule 134.503. Based on that formula and the AWP, the MAR would be \$209.60.</p> <p>Therefore, additional reimbursement is recommended in the amount of \$26.32.</p>
<b>Totals</b>		\$209.60	\$183.28				The Requestor is entitled to \$26.32 additional reimbursement.

**V. ORDER**

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit \$26.32 plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 6<sup>th</sup> day of January 2003.

Lesia Lenart  
Medical Dispute Resolution Officer  
Medical Review Division